

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

PIETRO BIESER,)
)
Petitioner,)
)
v.) Case No. 4:04CV0891AGF
)
MICHAEL KEMNA,)
)
Respondent.)

MEMORANDUM AND ORDER

This matter is before the Court¹ on the Petitioner's motion to introduce new evidence. Petitioner, Missouri inmate Pietro Bieser, filed this action pro se on August 16, 2004, for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The State filed its response on August 31, 2004. On January 5, 2005, Petitioner filed consent to this Court's jurisdiction. He never filed a traverse or a reply to the State's response. By Order dated September 21, 2007, the Court dismissed Petitioner's habeas action, concluding that several claims raised therein had been procedurally defaulted in state court, and that the remaining claims did not warrant federal habeas relief. The Court entered judgment against Petitioner on that same day.

In the underlying state court criminal case, Petitioner was found guilty by a jury of 12 sexual offenses perpetrated against Petitioner's 11-year old grandniece and two of her

¹ The parties have consented to the exercise of authority by the undersigned United States Magistrate Judge under 28 U.S.C. § 636(c).

friends, during the period of September 1, 2004, to March 15, 2005. The grandniece had initially told her grandmother that another man -- her mother's boyfriend -- had molested her, but she then told police, and testified at trial, that Petitioner was the perpetrator. At trial, Petitioner denied that he ever sexually molested any of the victims.

The present motion was filed on October 4, 2007. Petitioner asserts that "new evidence" has come to light: a juvenile court document dated April 25, 1995, in which Petitioner's grandniece asserts that her mother's boyfriend had molested her four times. Petitioner asserts that the document had been misplaced by his sister, and that as soon as she discovered it, she sent it to Petitioner. Upon review of the file, the Court concludes that the "new evidence" offered by Petitioner does not call into question the Court's disposition of Petitioner's federal habeas petition.

Accordingly,

IT IS HEREBY ORDERED that the Petitioner's motion to introduce new evidence is **DENIED**. [Doc. #13]

Audrey G. Fleissig
AUDREY G. FLEISSIG
UNITED STATES MAGISTRATE JUDGE

Dated this 21st day of November, 2007.